IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

United States of America, v. Reginald Bennett, Defendant.	))))))))	Cr. No. 3:11-685 (CMC) **OPINION and ORDER**

This matter is before the court on Defendant's Motion to compel the Government to file a Rule 35 motion. ECF No. 333. The Government has responded in opposition, and this matter is ripe for resolution.

Under Rule 35(b), the decision to move for reduction of sentence is solely in the discretion of the Government. The district court is without authority to compel such a motion unless Defendant can show that his cooperation is complete, and that the Government breached the plea agreement or that the Government's failure to file resulted from an unconstitutional motive or was not rationally related to a legitimate government goal. *Wade v. United States*, 504 U.S. 181, 185-86 (1992); *United States v. Butler,* 272 F.3d 683, 686 (4th Cir. 2001). Defendant must make a "substantial threshold showing," *Wade*, 504 U.S. at 186, of either of these elements which should constitute more than a recitation of the assistance provided.

Defendant has not provided any evidence of a breach of the plea agreement by the Government, nor has he made a "substantial threshold showing" relating to either element noted above. Therefore, for this reason, and for the reasons noted by the Government in its response,

Defendant's motion is **denied**.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
February 19, 2013